



# HOUSE OF REPRESENTATIVES

HB 2701 / SB 1532

criminal justice; budget reconciliation; 2016-2017.

Prime Sponsor: Representative Montenegro, LD 13 / Senator Biggs, LD 12

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**DPA** Committee on Appropriations

**DPA** Caucus and COW

**X** As Transmitted to the Governor

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## **OVERVIEW**

HB 2701 makes statutory and session law changes related to criminal justice agencies and programs to implement the fiscal year (FY) 2017 budget.

## **PROVISIONS**

### **Arizona Department of Corrections (ADC)**

#### **Contracted Beds**

1. Requires ADC to notify the Joint Legislative Capital Review Committee (JCCR) by 11/30/2016 if the male inmate population increases by at least 1,000 inmates above the 4/22/2016 count of 38,762.
  - a. If the trigger notice is provided, JCCR must review and approve the request for proposals (RFP) for 1,000 male medium security beds and opening timeline prior to the issuance of an RFP.
  - b. JCCR may not review or approve an RFP after January 1, 2017.
2. States that after JCCR approval, ADC must award a contract or contracts for 1,000 medium-security male beds for a total of 1,000 beds at new or existing contracted bed facilities or expansions of contracted facilities.
  - a. Authorization to enter into a contract for these beds ceases if the trigger notice is not provided by 11/30/2016 and JCCR review and approval does not occur before January 1, 2017.
3. Requires ADC to award a contract for the first 250 of the 1,000 beds to a county with a population of less than 200,000 persons, if the specified requirements are met.
  - i. The county must offer a contract that meets all of the requirements in the RFP and a per diem at the same or less rate than other bidders that are not counties.
  - ii. Two or more counties may offer one contract if each county has a population of less than 200,000 persons.
  - iii. Only the first 250 beds are required to be awarded to all eligible counties combined.
  - iv. ADC is not prohibited from awarding a contract for more than 250 beds.
  - v. If all eligible counties combined do not offer a contract / contracts for 250 beds that meet all of the requirements, ADC must award a contract to a county with a population of less than 200,000 persons for the total number of beds that meet the requirements.
4. Reduces the number of medium security prison beds authorized under the FY 2016 budget ([Laws 2015, Ch. 17, § 11](#)) at new, existing or expanded contracted bed facilities from 2,000

to 1,000, removing the option for the Legislature to authorize an additional 1,000 beds. Applies retroactively to 7/1/2016.

- a. *The FY 2016 budget authorized ADC to award a contract to open up to 1,000 beds on 7/1/2016 and gave the Legislature an option to authorize another 1,000 beds for up to a total of 2,000 medium security prison beds at new or existing contracted bed facilities or expansions of contracted bed facilities.*

**Financing Agreement**

5. Allows the Arizona Department of Administration (ADOA) in coordination with ADC to enter into a financing agreement in FY 2017 to generate a savings on the cost of housing prisoners by at least \$25 million from FY 2017-FY 2025.
  - a. ADOA, in coordination with ADC, must submit the following to JCCR for review prior to entering into the agreement:
    - b. The proposed terms of the agreement;
    - c. The total annual cost savings for the term of the agreement; and
    - d. The ADC allocation of the savings.
6. Prohibits ADC cost reductions from varying by more than \$1 million in any FY between FY 2017 and FY 2025.
7. Reductions in ADC contract payments as a direct result of the financing agreement must be included in the calculation of savings.

**Prisoner Health Care**

8. Allows the ADC Director to require, as a condition of release to community supervision, a prisoner to apply for health benefits through the Arizona Health Care Cost Containment System (AHCCCS).
9. Requires ADC to enter into an enrollment suspense agreement with AHCCCS to reinstate benefits for prisoners sentenced to 12 months or less and who were previously enrolled in AHCCCS immediately before incarceration.
10. Requires ADC to submit a pre-release application for prisoners who are not covered under the enrollment suspense agreement to AHCCCS at least 30 days prior to the prisoner's release date.
11. Allows ADC to coordinate with community-based organizations or the Department of Economic Security to assist prisoners in applying for AHCCCS.
12. Permits the Director of ADC to share prisoner health care information with the regional behavioral health authority (RBHA) or AHCCCS to facilitate the transition of care for released prisoners.
13. Requires the ADC Director to adopt policies and procedures that establish a *care team* to convene and discuss the services and resources that may be needed for safe prisoner transition into the community.
14. Specifies that the *care team* must be managed by the RBHA or AHCCCS contractor and allows the care team to include the health care provider identified by and contracted by the RBHA or AHCCCS contractor.
15. States that the *care team* may also include:
  - a. Representatives of nonprofit organizations that specialize in assisting prisoner transition; and

- b. Other organizations that link prisoners to additional services, including housing and employment.

**Prisoner Transition Program (Program)**

- 16. Requires the Prisoner Transition Program (Program) to provide eligible inmates with transition services in the community for up to 90 days.
- 17. Expands eligibility for the Program by removing offenses related to driving under the influence from the list of precluding offenses.
- 18. Strikes language stating that inmates participating in the Program are not required to receive an early release.
  - a. *A.R.S. § 31-285 requires inmates in the Program to be released from confinement three months prior to the inmate's earliest release date. An inmate who participates in the program but who is not low risk cannot be released earlier than the inmates earliest release date.*
- 19. Adds the following Program eligibility requirements for inmates:
  - a. Classified by ADC as a medium or minimum custody inmate;
  - b. Comply with all programming on the individualized corrections plan; and
  - c. Not be found in violation of any major rule or violent rule within the previous six months.
- 20. Removes the following Program eligibility requirements for inmates:
  - a. Be current on statutorily prescribed restitution payments;
  - b. Have maintained civil behavior while incarcerated;
  - c. Have a need and ability to benefit from the Program; and
  - d. Have a nonviolent risk score.
- 21. Adds psychoeducational counseling and case management services to the list of services that must be provided to inmates in the Program.
- 22. Requires ADC to include the recidivism rate of inmates who have been released from confinement for a minimum of three years after release as part of their annual study to determine recidivism rates on inmates who have received services as part of the Program. This information must also be included in the ADC's annual report on the Program.
- 23. Allows the annual report to be submitted electronically.
- 24. Requires ADC to provide Program information to specific inmates.
- 25. Requires the information provided to inmates to include all admission requirements, as well as all disqualifying factors.
- 26. Defines *recidivism*.
  - a. *A.R.S. § 31-281 establishes the Program, which is administered by ADC. Statute outlines eligibility requirements that each inmate must meet in order to participate in the Program. ADC is required to contract with private or nonprofit entities in order to provide services for the Program and must submit an annual report detailing recidivism rates of inmates who receive services.*

**Miscellaneous**

- 27. Requires ADC to administer the State Corrections Fund ([A.R.S. § 41-1641](#)) and makes it subject to legislative appropriation.

## HB 2701

28. Permits ADC to transfer monies from the Special Services Fund to the Automation Projects Fund in FY 2017 for costs related to the replacement of the adult image management system.
29. Requires ADC to report actual FY 2016, estimated FY 2017 and requested FY 2018 expenditures in the same structure and detail as the prior FY when submitting the FY 2018 budget request. The submission must contain as much detail as previously submitted years for prior line items.
  - a. *Continuation of previous year.*

### **Department of Public Safety**

30. Suspends the statutory cap of \$10 million for transfers of Highway User Revenue Fund (HURF) monies to the Department of Public Safety (ADPS) Highway Patrol in FY 2017.
  - a. *Continuation of previous year.*
  - b. [A.R.S. § 28-6537](#) limits the amount of HURF monies that can be transferred to ADPS to \$10 million per year.
31. Allows ADPS to use up to \$137,700 of the FY 2017 general fund (GF) appropriation to the Gang and Immigration Intelligence Team Enforcement Mission Border Security and Law Enforcement Subaccount (GIITEM Subaccount) for costs related to increases in the Public Safety Personnel Retirement System employer contribution rate.
  - a. *The GIITEM Subaccount is established in [A.R.S. § 41-1724\(E\)](#) and receives \$4 of the \$13 surcharge on civil and criminal violations [\(A.R.S. 12-116.04\)](#).*
32. Requires ADPS to submit the expenditure plan for the GIITEM Subaccount to JLBC for review prior to spending any monies appropriated for FY 2017.
  - a. *Continuation of previous year.*
33. Allows ADPS to use monies in the State Aid to Indigent Defense Fund ([A.R.S. § 11-588](#)) in FY 2017 for operating expenses.
  - a. *Continuation of previous year.*
34. Allows ADPS to use monies in the Concealed Weapons Permit Fund ([A.R.S. § 41-1722](#)); in FY 2017 to procure virtual training for law enforcement officers.
35. Allows ADPS to use monies in the following funds in FY 2017 for costs associated with the Border Strike Task Force:
  - a. Resource Center Fund ([A.R.S. § 41-2402](#)); and
  - b. Automobile Theft Authority Fund ([A.R.S. § 41-3451](#))

### **Drug and Gang Enforcement Fund (DGE Fund)**

36. Removes the Drug and Gang Enforcement Account from the Criminal Justice Enhancement Fund (CJEF) and makes it a standalone fund (DGE Fund). Makes no substantive changes to the way monies are deposited or expended from the DGE Fund.
37. Clarifies that the Arizona Criminal Justice Commission (ACJC) administers the DGE Fund and the Resource Center Fund.
38. Provides a copy of the annual report of law enforcement activities that are funded by the DGE Fund to the Secretary of State.
39. Removes language that refers to the drug and gang enforcement account as a subaccount of CJEF.

### **Study Committee on Incompetent, Nonrestorable and Dangerous Defendants (Committee)**

## HB 2701

40. Establishes the Study Committee on Incompetent, Nonrestorable and Dangerous Defendants (Committee) to research and make recommendations for a program to provide long-term treatment and supervisions of persons:
  - a. Charged with crimes involving violent or dangerous behavior, and
  - b. Who have been found incompetent and nonrestorable.
41. Requires research and recommendations to include:
  - a. The legal and administrative framework for a program;
  - b. The number of people who might be eligible;
  - c. Facility types, staffing and services that would be necessary; and
  - d. Costs associated with the program.
42. Outlines Committee membership.
43. Allows the Committee to request information, data and reports from any state agency or political subdivision, including the courts. Requires information to be provided electronically if possible.
44. Allows the Committee to hold hearings, conduct fact-finding tours and take testimony.
45. Requires all Committee meetings to be open to the public.
46. States that the Legislature will provide staff and support services to the Committee.
47. Prohibits Committee members from receiving compensation.
48. Requires the Committee to submit a report of findings and recommendations by December 15, 2016 to the Governor, Speaker of the House, President of the Senate and Secretary of State.
49. Repeals the Committee on 1/1/2017.

### Miscellaneous

50. Makes clarifying changes to the annual report required by agencies on the source of funds deposited into the Attorney General Legal Services Cost Allocation Fund (Fund).
  - a. *Current law requires agencies to pay into the Fund to offset general counsel services provided by the AG to the agencies.*
51. Suspends county nonsupplanting provisions related to specific judicial programs in FY 2017 and requires the Arizona Supreme Court to report to JLBC on any decrease in county funding related to the suspensions, including reasons for the decrease.
  - a. *Continuation of previous year.*
52. States that it is the intent of the Legislature that each county pay an amount assessed for committed youth in secure care facilities, determined based on the county's proportional share of \$11,260,000.
  - a. *Continuation of previous year, except that the total amount is reduced from \$12 million in FY 2016.*
53. Makes technical, conforming and clarifying changes.